

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DATE FILED: 1/30/09

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United States,

Plaintiff,

- against -

Ramon Antonio Rodriguez-Santos,

Defendant.
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07 Cr. 153 (TPG)

ORDER

On December 23, 2008, defendant moved to amend his sentence to state that his federal sentence was to run concurrently with his state sentence.

On June 15, 2007, defendant was sentenced in New York State Court to one year imprisonment. On January 8, 2008, this Court sentenced defendant to 30 months imprisonment, followed by supervised release, for the federal offense of illegal re-entry following conviction for an aggravated felony. This January 1, 2008 sentencing judgment did not specify that defendant's sentence was to run concurrently with any prior sentence imposed by the state. It is well-settled that absent an order that a term of imprisonment is to run concurrently with a term of imprisonment imposed at a different time, the terms run consecutively. See 18 U.S.C. § 3584(a).

It appears clear that this Court does not have the authority to modify its original sentence. See U.S. v. Pineyro, 112 F.3d 43, 45 (2d Cir. 1997); U.S. v. Bernabal, 2001 WL 1182721 (2d Cir. Oct. 5, 2001). However, this Court wishes to state that even if there was jurisdiction, defendant's application would be denied.

Dated: New York, New York
Jan. 30, 2009

SO ORDERED

A handwritten signature in black ink, reading "Thomas P. Griesa". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Thomas P. Griesa
U.S.D.J.